IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Dharmpal Dogiwal & Ors. Vs. State of Rajasthan & Ors.

S.B.CIVIL WRIT PETITION NO.5749/2003

DATE OF ORDER :: May 25, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr. I.R.Choudhary, for the petitioners.
Mr.Rameshwar Dave, Dy.G.A. for the respondents.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioners seek direction to the respondents to provide them bonus marks for teaching experience in Rajiv Gandhi Swarn Jayanti Pathshala.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioners that the petitioners were engaged on honorarium basis under the scheme "Rajiv Gandhi Swarn Jayanti Pathshala" and gained the

teaching experience.

Learned Deputy Government Advocate appearing for the respondent State submits that the respondents advertised the posts of Senior Teacher and in the advertisement itself, it has been made clear that the bonus marks for the teaching experience will be eligible to those, who were working as Teachers/Physical Teachers in the Secondary, Elementary School or the schools run by the Rural Development and Panchayati Raj Department or the Sanskrit and aided schools of the State Government. The petitioners have not been employed by the respondent State in any of such schools or the aided schools of the State Government as they have been engaged on fixed honorarium under the Rajiv Gandhi Swarn Jayanti Pathshala Scheme and were not employee of the respondent State in Education Department. Learned Deputy Government Advocate further submits that the controversy involved in the instant case stands concluded by a Division Bench decision of this Court in Emarata Ram Pooniya & 8 Ors. vs. State of Rajasthan, **2005(2) WLC (Raj.) 358**, wherein this Court held that there is a direct financial control in the matter of Government aided institutions and so also the sanction for appointment is required to be taken from the Government by the aided institutions. The grant is given only on approved posts. But there is no such restriction for recognized institutions, which are not getting any financial

aid. Thus, the aided institutions and recognized institutions are two different institutions based on intelligible classification. Such a policy decision does not call for interference by this Court. On this premise, the Division Bench of this Court were not inclined to enter into the controversy, as it is purely a policy matter and further the fact that the challenge has been made at a stage when selections have already been made.

In the instant case, the petitioners have been engaged on honorarium at a consolidated payment in a particular scheme commonly known as Rajiv Gandhi Swarn Jayanti Pathshala Scheme and they had never been permanently employed by the respondent State or any of the schools aided by the State Government and, therefore, it cannot be said that the experience gained by them can be equated to that of the teachers, who gained the experience in teaching in Govt. Schools or the schools aided by the State Government.

In this view of the matter, no case for interference is made out. The writ petition is, therefore, dismissed. Stay petition also stands dismissed. There shall be no order as to costs.

[H.R.PANWAR],J.

m.asif/-